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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/089,597      | 07/12/2002  | Ake Bergstrom        | P/1228-150          | 2988             |

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EXAMINER

HAYES, BRET C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3644

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/089,597

Applicant(s)

BERGSTROM ET AL.

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-27 is/are rejected.
- 7) ☒ Claim(s) 11,12,14,19,20 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 11, 12, 14, 19, 20 and 24 are objected to because of the following informalities: claim 11, line 2, "the longitudinal direction" should be --a longitudinal direction--; claim 12, line 2, "the movement" should be --a movement--; claim 14, line 2, "the forward end" should be --a forward end--; claim 19, line 4, "the continued coupling" should be --a continued coupling--; claim 20, line 4, "the longitudinal direction" should be --a longitudinal direction--; and claim 24, lines 4 and 5, "the inside" should be --an inside--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 15, 23 – 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 15 recites the limitations "the at least one lateral side" in lines 1 and 2, and "the at least one panel" in line 2. There is insufficient antecedent basis for these limitations in the claim.

5. Claim 23 recites the limitation "a bracket" in line 2 and, further, "the bracket" in line 3. While there is antecedent basis for "the bracket" in the claim, it is unclear to which bracket is being referred. Since this claim depends upon a claim, which has already recited "a bracket", claim 22, examiner suggests inserting --first-- between "a" and "bracket" (and subsequent

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recitations of "the" and "bracket") in the claim 22, and inserting --second-- between "a" and "bracket" (and subsequent recitations of "the" and "bracket") in the claim 23, for clarity.

6. Claim 24 recites the limitations "the panel control arrangement" in line 3. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 25 recites the limitation "the longitudinal direction location" in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 26 recites the limitations "the framework" in lines 1 and 2, and "the longitudinal direction location" in lines 4 and 5. There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner ('503).

11. Re – claim 10, '503 discloses: a freight vehicle including lateral sides, a chassis **10**, an engine **20** supported on the chassis **10**, a driver's cab **21** mounted to the chassis **10** and above the engine **20**; a compartment in which the engine **20** is disposed, the compartment having lateral sides at the lateral sides of the vehicle; a panel **31** at at least one of the lateral sides of the vehicle and laterally delineating the compartment, the panel **31** being pivotally mounted on the *cab* **21** to pivot laterally outward between a closed position enclosing the at least one lateral side of the

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compartment and an open position permitting access past the panel 31 to the engine 20 in the compartment. However, '503 does not disclose the panel 31 being pivotally mounted on the chassis 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify '503 to include the panel being pivotally mounted on the chassis, since it has been held that rearranging parts of an invention involves only routine skill in the art.

*In re Japiske*, 86 USPQ 70.

12. Re – claim 11, '503 discloses the claimed invention, as applied to claim 10 above, except for the panel 31 opening rearwardly with respect to the vehicle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify '503 further to include the panel 31 opening rearwardly with respect to the vehicle, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

13. Re – claim 12, '503 further discloses a panel control arrangement 47 connected with the panel 31 and for controlling the movement of the panel 31 to the open access position.

14. Re – claim 13, '503 further discloses at least one accessible step 35 on the panel enabling a user to climb to the cab 21 on the step.

15. Re – claim 14, '503 discloses the claimed invention except for a frame on the chassis 10, a suspension arrangement on the frame and supporting the engine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a frame on the chassis and a suspension arrangement on the frame supporting the engine, since, while not explicitly disclosed in '503, engines are normally supported by suspension arrangements – “motor mounts” – and to further include a frame, which motor-mount brackets could be

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considered to constitute, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St, Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

16. Re – claim 15, ‘503 further discloses a door **28** on the cab **21** at the at least one lateral side of the vehicle, the door **28** being disposed above the panel **31**, and being hinge mounted, col. 2, line 21, “pivotally connected”, to pivot open and closed.

17. Re – claim 16, ‘503 discloses the claimed invention except for a cover over the panel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a cover over the panel, since the panel itself acts as a cover, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St, Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

18. Re – claim 17, ‘503 discloses the claimed invention, see the rejection of claim 13 in view of the rejection of claim 16 above with regard to duplicating essential working parts.

19. Re – claim 18, ‘503 discloses the claimed invention; see the rejection of claim 12 in view of the rejection of claim 16 above, except for detachably coupling the cab door **28**. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify ‘503 to rearrange the control arrangement **47** to detachably couple the door **28**, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

***Allowable Subject Matter***

20. Claims 19 – 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim

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and any intervening claims and if rewritten to overcome any of the pertinent rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

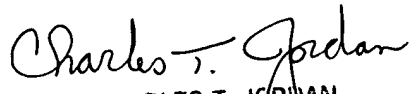
***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306-0553. The examiner can normally be reached Monday through Friday from 6:00 am to 6:30 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306-4159. The fax number for this group is (703) 305-7687.

bh

7/2/03

  
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